



Attorney Docket No. _____

Patent
K35A0603

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

JUL 13 2004

GROUP 3600

In re Patent Application of

James S. Ellis

Group Art Unit: 3625

Application No.: 09/557,040

Examiner: Forest Thompson, Jr.

Filing Date: April 21, 2000

Confirmation No.: 6502

Title: INTERNET BASED COMPUTER SYSTEM COMPONENT EXCHANGE

AMENDMENT/REPLY TRANSMITTAL LETTERCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed is a reply for the above-identified patent application.

☐ A Petition for Extension of Time is also enclosed.☐ Terminal Disclaimer(s) and the ☐ \$55.00 (2814) ☐ \$110.00 (1814) fee per
Disclaimer due under 37 C.F.R. § 1.20(d) are also enclosed.☐ Also enclosed is/are _____

_____☐ Small entity status is hereby claimed.☐ Applicant(s) requests continued examination under 37 C.F.R. § 1.114 and enclose the
☐ \$385.00 (2801) ☐ \$770.00 (1801) fee due under 37 C.F.R. § 1.17(e).☐ Applicant(s) requests that any previously unentered after final amendments not be entered.
Continued examination is requested based on the enclosed documents identified above.☐ Applicant(s) previously submitted _____

on _____
for which continued examination is requested.☐ Applicant(s) requests suspension of action by the Office until at least _____,
which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R.
§ 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (1809/2809) is also
enclosed.

- ☒ No additional claim fee is required.
- ☐ An additional claim fee is required, and is calculated as shown below.

AMENDED CLAIMS					
	No. of Claims	Highest No. of Claims Previously Paid For	Extra Claims	Rate	Additional Fee
Total Claims		MINUS =	0	x \$18.00 (1202) =	\$ 0.00
Independent Claims		MINUS =	0	x \$86.00 (1201) =	\$ 0.00
If Amendment adds multiple dependent claims, add \$290.00 (1203)					
Total Claim Amendment Fee					\$ 0.00
<input type="checkbox"/> Small Entity Status claimed - subtract 50% of Total Claim Amendment Fee					\$ 0.00
TOTAL ADDITIONAL CLAIM FEE DUE FOR THIS AMENDMENT					\$ 0.00

- ☐ A check in the amount of _____ is enclosed for the fee due.
- ☐ Charge _____ to Deposit Account No. 02-4800.
- ☐ Charge _____ to credit card. Form PTO-2038 is attached.

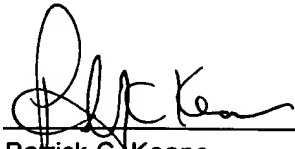
The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

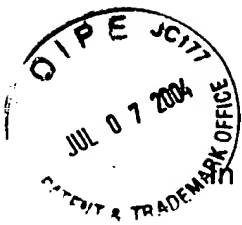
Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

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Date: July 7, 2004

By 
Patrick C. Keane
Registration No. 32,858



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In re Patent Application of

James S. Ellis

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For: INTERNET BASED COMPUTER
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GROUP 3600

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated April 7, 2004, reconsideration and allowance of the present application are respectfully requested. Claims 1-32 remain pending in the application.

In numbered paragraph 4 on page 2 of the Office Action, claims 1-10, 12-25 and 27-32 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,029,146 (Hawkins et al) in view of a document entitled "Should Publishers Consider Retail Revenue Sharing With Online Networks?" (the Multimedia document) and WO 00/75828 (Stolzoff et al). This rejection is respectfully traversed, because the secondary references relied upon by the Examiner fail to overcome the deficiencies already acknowledged by the Examiner in the Interview Summary Sheet dated December 10, 2003.

In the Interview Summary Sheet, the Examiner acknowledges that "the features of ownership and shares of the exchange server complex as claimed in

claim 1" are not disclosed in the Hawkins document. The Examiner now relies on the Multimedia and Stolzoff documents. However, these secondary documents do not overcome the deficiencies of the Hawkins patent.

For example, none of the documents, considered individually or in combination, teach or suggest "a plurality of investment instruments comprising shares of ownership interests in the exchange server complex" as recited in claim 1. None of the documents teach or suggest "a means for apportioning the net profit based on the number of shares associated with each owner-processor" as recited in claim 1.

In accordance with exemplary embodiments, such as that illustrated in Figure 1, a plurality owner-processors 10 are connected to network 150. An exchange server complex 51 is also connected to network 150. The exchange server complex provides a mechanism by which computer component sellers can be matched with computer component purchasers.

A plurality of investment instruments 56 comprise shares of ownership interests in the exchange server complex 51, and are stored in an accounting database 57. For example, the first owner-processor 10a is associated with a share 56a. Thus, owner-processors can be associated with at least one of the shares, thereby defining an ownership interest in the exchange server complex for a proprietor of a respective owner-processor. The exemplary Figure 1 system provides for ownership of an on-line exchange system by businesses participating in the exchange, so that businesses that use the exchange more often can be rewarded. Such a fundamental concept is reflected in the features of claims 1 and

18, and is not taught or suggested by any of the documents relied upon by the Examiner.

None of the documents relied upon by the Examiner teach or suggest ownership of an exchange server complex by a plurality of owner-processors having proprietors. The Hawkins patent discloses a method and apparatus for trading securities electronically. Referring to Figure 4 of the Hawkins patent, an originating broker 100 (working for Company A) places an order with an executing broker 101 (working for company B) by sending a buy order to host 102 (which is associated with financial institution C). The executing broker 101 retrieves the buy order message, executes the buy order, and sends a confirmation message to host 102. Host 102 matches the originating and executing broker messages and sends messages to the originating broker's clearing agents. Apart from mentioning that host 102 is associated with Financial Institution C, the Hawkins patent does not discuss ownership in the host 102. Accordingly, the Hawkins patent does not disclose or suggest "investment instruments comprising shares of ownership interest" in host 102, or "a means for apportioning the net profit based on a number of shares associated with each owner-processor."

The Hawkins patent simply does not teach or suggest that the originating broker 100 and/or the executing broker 101 possess any ownership interest in the financial institution C. Claim 1 specifically recites "a plurality of investment instruments comprising shares of ownership interests in the exchange server complex". Claim 1 additionally recites "at least one of the shares associated with the first or the second owner-processor thereby representing the ownership interest

in the exchange server complex for the proprietor of the respective owner-processor."

The Examiner recognizes the deficiencies of the Hawkins patent and therefore relies on the Multimedia document and the Stolzoff document. However, these documents provide no teaching or suggestion that any owner-processor maintains an ownership interest in an exchange server complex as presently claimed. These documents, even when considered in the combination relied upon by the Examiner, fail to teach or suggest any investment instrument comprising shares of ownership interests in an exchange server complex as claimed.

In discussing the Multimedia document, none of the comments set forth by the Examiner in the first paragraph on page 4 of the Office Action provide any discussion of an ownership interest in an exchange server complex. The second paragraph on page 4 of the Office Action provides a discussion of the Stolzoff document, which continues through page 8 of the Office Action. However, none of the comments set forth by the Examiner in this portion of the Office Action describe a disclosure in the Stolzoff document of an ownership interest in an exchange server complex.

On page 8 of the Office Action, the Examiner sets forth a combination of the three documents with the following statement:

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the inventions of Hawkins et al, Multimedia and Stolzoff to explicitly teach applicant's claimed invention above in combination with components of the invention that encompassed shares of ownership and monetary exchanges related to ownership factors, calculating and charging fees, and apportioning the net profit based on the number of shares associated with each owner-processor, as disclosed by the combination of Hawkins et al, Multimedia and Stolzoff, for the motivation of compensating owners/systems for the exchange of products and services.

This statement of obviousness is unsubstantiated by any evidence of record. The Multimedia document is directed to online network operators, and other "middleman" operators, who facilitate sales and distribution. However, none of the examples provided in the Multimedia document addresses ownership in such an online network operator. There is simply no teaching or suggestion in this document of investment instruments comprising shares of ownership interests in an exchange server complex.

The Stolzoff document is directed to trading assets on an exchange. None of the numerous examples provided in this document provide any teaching or suggestion for apportioning ownership within the exchange among users of the exchange. There is simply no disclosure by Stolzoff of investment instruments comprising shares of ownership interests in an exchange server complex.

Because none of the documents relied upon by the Examiner teach or suggest significant features of Applicant's claim 1 combination, claim 1 is patentably distinct over these documents. The Examiner's sole basis for combining these documents is the motivation provided by the presently claimed invention. As such, claim 1 is considered allowable.

Independent claim 18 recites a method with similar features to those discussed with respect to claim 1. For example, claim 18 recites, among other features, "at least one proprietor having an ownership interest in the computer component exchange" and "apportioning net profit based on the number of shares associated with each owner-processor". The "number of shares" which are associated with each owner-processor to apportion the net profit, are thus specifically described in the preamble of claim 18 as "shares representing the

respective proprietor's ownership in the exchange server complex". As already discussed with respect to claim 1, none of the documents relied upon by the Examiner teach or suggest any ownership interest in an exchange server complex by proprietors who exploit services of the exchange server complex.

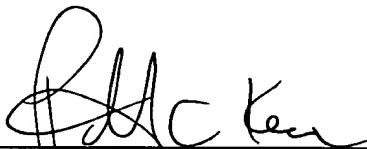
The remaining claims depend from independent claims 1 and 18 and recite further advantageous features which further distinguish over the documents relied upon by the Examiner. As such, these claims are also considered allowable.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: July 7, 2004

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